THE HON'BLE SRI BILAL NAZKI, THE ACTING CHIEF JUSTICE

-

AND

THE HON'BLE SRI JUSTICE R.SUBHASH REDDY

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WRIT APPEAL No.1778 OF 2005

Dated 26th September, 2005

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Between:

M.Kurmanna ….Appellant.

AND

The Hon'ble Jr.Civil Judge-cum-Election

Tribunal at Narayanpet, Mahbubnagar

District & others. …Respondents.

ORAL JUDGMENT: (per Hon'ble Sri Bilal Nazki, the Acting Chief Justice)

Heard the learned counsel for the appellant.

The second respondent challenged the election of the appellant – writ petitioner in Election Petition before the Junior Civil Judge-cum-Election Tribunal, Narayanpet,

on the ground that his wife had given birth to a third child after 30th of May 1994. It was alleged that the third child was born on 22-7-1997. The writ petitioner contended that he had three children, but all of them were born before 30th of May 1994. He filed a counter affidavit before the Court and also appeared as a witness, but avoided in the counter affidavit to give the exact date of birth of his child. He merely stated that his third child was born before 30th of May 1994. He did not produce any documentary proof that his third child was born before 30th of May 1994. He admitted in the Court that all the three children were going to school. But, he did not even state as to in which class they were studying. He did not produce the birth certificates from the schools in which his children were studying. On the other hand, the other side produced cogent evidence to come to a conclusion that the third child was born much before 22-9-1997 and in any case after 30th of May 1994. A certificate was produced that the wife of the appellant underwent tubectomy on 4-8-1997 and by that date her third child was twenty days old. It appears that after the birth of the third child immediately the wife of the appellant went for tubectomy. In these circumstances, the trial Court believed the evidence produced by the respondents and the petitioner failed to produce any evidence and his conduct was sufficient to show that the child was born after 30th of May 1994. The learned single Judge was right in holding that there was no apparent error on the face of the record, therefore, there was no scope for the writ Court to interfere in the findings arrived at by the Election Tribunal. We agree with these conclusions and dismiss the writ appeal.

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(BILAL NAZKI, ACJ)

26th September 2005.

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(R.SUBHASH REDDY, J.)

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